

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.1035 of 2007

Dr. Sanjay Narang	Applicant
Vs.	
State of Maharashtra & anr.	Respondents
Mr.V.T.Tulpule with Mr.Rajendra Sorankar for applicant. Ms.S.V.Gajre, APP for State.	

CORAM: B.H.MARLAPALLE, J.

August 2, 2007.

P.C.

1. Heard Mr.Tulpule with Mr.Sorankar, the learned counsel for the applicant. In this application filed under Section 482 of Cr.P.C. the applicant, who claims to be the Proprietor of M/s. Western Builders and Leasing, is praying for quashing the proceedings in Criminal Case No. 198/P of 1999 presently pending on the file of the learned Addl. Chief Metropolitan Magistrate, 48th Court, Girgaum, Mumbai. It appears that the process issued in the complaint was challenged in Criminal Revision Application No.689 of 2000 and the Revision has been dismissed by the learned Addl. Sessions Judge at Greater Mumbai on 22/2/2007. Prior to approaching to the Sessions Court, the applicant had submitted an application before the learned Magistrate for being discharged

and the same was rejected on 11/4/2005.

2. Mr.Tulpule, the learned counsel for the petitioner has referred to the correspondence between the applicant's company, M/s.Konvekta AG Germany and the letters addressed by the said company purportedly to the Malbar Hill Police Station. He has also referred to the enquiry report submitted by the police and pointed out that even the German principal company had advised its agent in India represented through the complainant that the present applicant and his company were not to be harassed.

3. Whereas the case of the complainant is that pursuant to the proposal dated 2nd February 1995 her company had taken steps to supply two numbers of Konvekta Cooling Units (Model TK 3600) and after the same were supplied and installed, the petitioner - company vide its letter dated 25th March 1995 addressed to the German principal company took up the issue of earlier units being found to be defective and the new units to be treated as replacement for the same. The learned Judge of the Sessions Court, having regards to the disputes facts, recorded a finding that a triable case was made out before the

learned Magistrate and there was no case to quash and set aside the order of issuance of process.

4. I am satisfied that a triable case has been made out in the complaint filed by the complainant against the petitioner and this is not a fit case to invoke the inherent powers under Section 482 of Cr.P.C. to quash and set aside the proceedings in the pending complaint.

5. Hence the application is rejected.

6. However, if the applicant seeks time for appearance or seeks exemption from appearance when the trial commences, the same shall be considered sympathetically by the trial Court and his appearance scheduled on tomorrow before the trial Court could be exempted on the assurance furnished by the learned counsel before me that he will appear before the trial Court within a period of two weeks from today.

(B.H.MARL